

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
Norfolk Division

UNITED STATES OF AMERICA,

v.

Criminal Action No. 2:22cr123

JAMIQUE MAYS,

Defendant.

ORDER

This matter comes before the Court on the defendant's unopposed motion and brief to continue the jury trial and waiver of speedy trial for continuity of counsel. (ECF No. 20.) On September 21, 2022, a grand jury returned a four-count indictment charging Mays with: conspiracy to interfere with commerce by means of robbery (Count 1); interference with commerce by means of robbery (Count 2); use, carry, and brandish a firearm during a crime of violence (Count 3); and felon in possession of a firearm (Count 4). On December 9, 2022, United States Magistrate Judge Lawrence R. Leonard conducted the defendant's initial appearance. The government moved for detention during that hearing. That same day, the Court appointed Peter Jankell as counsel for the defendant. On December 14, 2022, United States Magistrate Judge Robert J. Krask arraigned the defendant and held a detention hearing. After argument, Judge Krask ordered the defendant detained. The Speedy Trial deadline thus fell on Wednesday, February 22, 2023. *See* 18 U.S.C. § 3161(c)(1). The Court held a conference call with the government and counsel for the defendant on December 20, 2022, during which it set this case for a jury trial to begin on February 13, 2023.

On January 20, 2023, counsel for the defendant filed a motion to withdraw and appoint new counsel at the request of the defendant because "effective trust and confidence between Counsel and the Defendant deteriorated and was no longer possible." (ECF No. 15, at 2.) The

Court held a hearing on the motion on January 21, 2023.¹ The Court granted the defendant's motion at the hearing and appointed Brian Latuga as counsel for the defendant later that day.

On February 3, 2023, the defendant filed a motion to continue the trial because the Court granted the defendant's motion to withdraw and appointed new counsel two weeks before the Court had scheduled the trial to begin. Counsel has not yet received or reviewed discovery "and is wholly unprepared to try this case on February 13, 2023." (ECF No. 20, at 2.) Further, the defendant "indicated . . . that he expressly waives Speedy Trial rights under the Speedy Trial Act, understands that Counsel is moving this Court for a continuance of the trial date past the speedy trial deadline, and wishes to persist in his Not Guilty plea and set this matter for Jury." (*Id.*) The defendant, therefore, asks the Court to continue the trial "outside the applicable Speedy Trial Calculation" "for continuity of counsel and effective preparation." (*Id.* at 4.) The government does not oppose this motion.

Upon due consideration, the Court FINDS that commencing trial before the Speedy Trial deadline expires would "result in a miscarriage of justice," "would unreasonably deny the defendant . . . continuity of counsel," and "would deny counsel for the defendant . . . the reasonable time necessary for effective preparation." 18 U.S.C. §§ 3161(h)(7)(B)(i), (ii), (iv). Accordingly, the Court FINDS that the ends of justice served by setting a trial date beyond the Speedy Trial deadline in this case outweigh the best interest of the public and the defendant in a speedy trial. *See id.* § 3161(h)(7). The Court, therefore, GRANTS the defendant's motion to continue, (ECF No. 20), and CONTINUES GENERALLY the jury trial in this case. The Court

¹ The Court originally scheduled a hearing on the motion for January 27, 2023, but the U.S. Marshals Service did not transport the defendant to the courthouse. The undersigned District Judge therefore referred the motion to a United States Magistrate Judge pursuant to 18 U.S.C. § 636(b)(1)(A). The parties appeared before United States Magistrate Judge Douglas E. Miller at the January 31 hearing.

DIRECTS the parties to confer about their joint availability and to contact the Court within seven (7) days of this Order to schedule a conference call to set a new trial date.

It is so ORDERED.

Let the Clerk send a copy of this Order to all counsel of record.

Date: 3 February 2023
Richmond, VA

<p style="text-align: center;">_____ /s/ John A. Gibney, Jr. Senior United States District Judge</p>
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